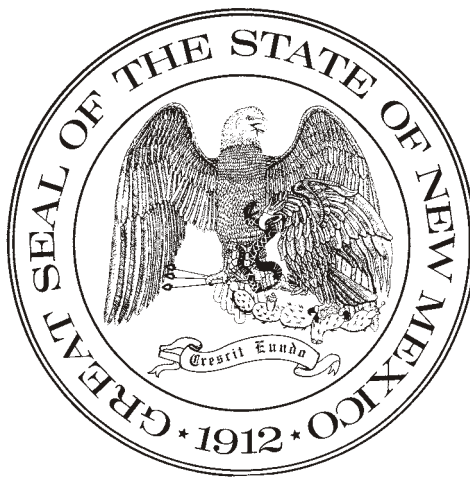


Tobacco Settlement Revenue Oversight Committee

2005 INTERIM REPORT



New Mexico State Legislature
Legislative Council Service
411 State Capitol
Santa Fe, New Mexico

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**2005 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

Membership

The tobacco settlement revenue oversight committee was created pursuant to Section 2-19-1 NMSA 1978. The committee members are:

Rep. Gail C. Beam, Co-chair	Rep. Danice Picraux
Sen. Mary Jane M. Garcia, Co-chair	Sen. John C. Ryan
Sen. John T.L. Grubescic	Rep. Gloria C. Vaughn

Advisory Members

Sen. Rod Adair	Sen. Linda M. Lopez
Rep. Ray Begaye	Sen. James G. Taylor
Sen. Joseph J. Carraro	Rep. Luciano "Lucky" Varela
Sen. Dede Feldman	Rep. Teresa A. Zanetti

Work Plan

Section 6-4-9 NMSA 1978, as amended in 2003, transfers all tobacco settlement revenues received in fiscal years 2003 through 2006 to the general fund, discontinuing the transfer of fifty percent of the revenues to the tobacco settlement program fund until fiscal year 2007. However, since many of the programs previously funded by the tobacco settlement program fund continue to be funded through the general fund, the committee will continue its oversight duties for those programs.

During the 2005 interim, the tobacco settlement revenue oversight committee proposes to:

(1) monitor the use of tobacco settlement revenue by maintaining oversight of those programs recommended by the committee and funded by the legislature;

(2) prepare recommendations, based on its program evaluation process, for program funding levels for fiscal year 2007;

(3) examine issues and legislation to enhance the collection of tobacco taxes;

(4) examine the status of the revenue and reserve fund relating to the sunset provision for tobacco settlement revenue;

(5) work with the attorney general's office, as necessary, to ensure that New Mexico continues to receive the highest possible revenue from the tobacco settlement; and

(6) recommend legislation or changes to existing legislation, if any.

2005 APPROVED MEETING SCHEDULE

<u>Date</u>	<u>Location</u>
June 20	Santa Fe
September 23	Santa Fe
November 10	Albuquerque

Agendas

**TENTATIVE AGENDA
for the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**June 20, 2005
Room 311
State Capitol
Santa Fe, New Mexico**

Monday, June 20

- 10:00 a.m. **Call to Order**
 —Senator Mary Jane M. Garcia and Representative Gail C. Beam, Co-Chairs
- 10:05 a.m. **Development of Committee Work Plan and Meeting Schedule**
- Adjournment**

**TENTATIVE AGENDA
for the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**September 23, 2005
Room 311
State Capitol
Santa Fe, New Mexico**

Friday, September 23

- 10:00 a.m. **Call to Order**
—Senator Mary Jane M. Garcia and Representative Gail C. Beam, Co-Chairs
- 10:05 a.m. **Approval of June 20, 2005 Minutes**
- 10:10 a.m. **Tobacco Use Prevention and Control (Tupac) Program
Status Report, Update and Evaluation**
—David Vigil, Bureau Chief, Chronic Disease Prevention and Control,
Department of Health (DOH)
—Larry Elmore, Program Manager, TUPAC Program, DOH
- 11:00 a.m. **Diabetes Program Update and Evaluation**
—Judith Gabriel, DOH
- 11:30 a.m. **HIV/AIDS Program Update and Evaluation**
—Dorothy Danselser, Deputy Director of Public Health, DOH
- 12:00 noon **Lunch**
- 1:30 p.m. **Breast and Cervical Cancer Program Update**
—Larry Heyeck, Deputy Director, Medical Assistance Division, Human Services
Department
- 2:00 p.m. **Update from the Office of the Attorney General**
—Glenn Smith, Deputy Attorney General
- 2:30 p.m. **Smartmoves Program — Overview, Evaluation and
Funding of the Program**
—Al Padilla, Chief Professional Officer for Santa Fe Boys' and Girls' Clubs
and Administrator for Smartmoves Program, New Mexico State
Alliance for Boys' and Girls' Clubs
- 3:15 p.m. **Adjournment**

Revised: October 31, 2005

**TENTATIVE AGENDA
for the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**November 10, 2005
University of New Mexico
801 University Blvd. SE
Park North Rotunda
Albuquerque, New Mexico**

Thursday, November 10

- 10:00 a.m. **Call to Order**
 —Senator Mary Jane M. Garcia and Representative Gail Chasey, Co-Chairs
- 10:05 a.m. **Approval of September 23, 2005 Minutes**
- 10:10 a.m. **UNM Health Sciences Center Overview**
 —Dr. John Pieper, Pharm. D., Deputy Vice President, UNM Health Sciences Center
- 10:35 a.m. **UNM Health Sciences Center Evaluation Report**
 —Dr. Richard S. Larson, M.D., Ph.D., Senior Associate Dean for Research
- 11:05 a.m. **Lovelace Respiratory Research Institute (LRRI) Status Report and Performance Outcomes**
 —Dr. Robert W. Rubin, President and CEO, LRRI
- 11:30 a.m. **Tobacco Settlement Revenue Estimates; Update on Permanent Fund**
 —Melissa Vigil, Department of Finance and Administration
- 12:00 noon **Lunch**
- 1:30 p.m. **Tobacco Use Prevention and Control (TUPAC) Program Performance Measures**
 —Kacee Collard, Analyst, Legislative Finance Committee
 —Larry Elmore, Program Manager, TUPAC Program, Department of Health
- 2:00 p.m. **Public Comment**
- 2:15 p.m. **Committee Discussion on FY07 Program Funding Recommendations**
- 3:00 p.m. **Adjourn**

Minutes

**Minutes
of the
Tobacco Settlement Revenue Oversight Committee
June 20, 2005
Santa Fe**

The first meeting of the tobacco settlement revenue oversight committee was called to order on June 20, 2005 at 10:00 a.m. in Room 311, State Capitol, by Representative Gail C. Beam, co-chair.

PRESENT

Rep. Gail C. Beam, co-chair
Sen. Mary Jane M. Garcia, co-chair
Rep. Danice Picraux
Sen. John C. Ryan

ABSENT

Rep. Gloria C. Vaughn
Sen. John T.L. Grubestic

Advisory Members

Sen. Rod Adair
Rep. Ray Begaye
Sen. Dede Feldman
Sen. Linda M. Lopez
Sen. James G. Taylor
Rep. Luciano "Lucky" Varela
Rep. Teresa A. Zanetti

Sen. Joseph J. Carraro

Staff

Ramona Schmidt
Cristina Martinez

Representative Beam welcomed all to the tobacco settlement revenue oversight committee (TSROC) meeting and asked the members of the committee and support staff to introduce themselves.

The proposed dates for the upcoming TSROC meetings were reviewed by the members. It was noted that there is a conflict with the August 8 meeting and members reviewed alternative dates. Committee members agreed to change the August 8 meeting to Friday, September 23, at 10:00 a.m. and the October 6 meeting to Thursday, November 10, at 10:00 a.m. The committee members stated they would like the meeting held in Albuquerque to include a presentation by UNM health sciences center staff.

Representative Beam recounted how the TSROC was created and stated that the committee has been charged statutorily with delegating the tobacco settlement revenue funds. It was decided there would be a 50 percent split with half of the funds going into a permanent fund and the other half going into a program fund. The committee also recommended that programs should be funded so that programs were not solely tobacco-related but included broader health issues. Representative Beam noted that although there has been a decline in revenue over the years, the revenue will begin to increase beginning in 2018, based on the tobacco settlement

permanent fund distribution analysis under current law. The committee members were reminded of the amendment in 2003 of Section 6-4-9 NMSA 1978, which transferred all tobacco settlement revenues received in fiscal years 2003 through 2006 to the general fund and discontinued the transfer of 50 percent of the revenues to the tobacco settlement program fund until fiscal year 2007. Representative Beam noted that the sunset date is approaching and encouraged the committee to support the funding to return to the permanent fund. Senator Garcia stated that the main focus of the programs funded by the tobacco settlement revenue is still cessation and prevention, especially focused on youth. It was noted that the goal of the TSROC is to protect the fund money and the programs for tobacco cessation.

As part of its oversight, the committee annually hears reports by the department of health, the university of New Mexico health sciences center and the legislative health and human services committee on the programs funded through the TSROC.

Pam Ray, staff attorney for the legislative council service (LCS), explained House Taxation and Revenue Committee Substitute for House Bill 452 and stated that the intent of the bill was to assist in the administration of the funds and close gaps to better control the flow of cigarette tax. Ms. Ray stated that there was an issue for intertribal distribution and the tracking of cigarettes going into tribal sales but this was addressed through the intertribal agreement.

Senator Ryan asked for a more detailed report of the impact on taxation, and Representative Beam asked committee staff to invite Cleo Griffith from the LCS to present at the September meeting to further address this issue.

The committee members agreed on the following September meeting agenda items:

- an update from the attorney general's office;
- the history of bills related to TSROC presentation;
- the programs and amounts funded for fiscal year 2006; and
- a department analysis of House Taxation and Revenue Committee Substitute for House Bill 452, including presentation of the distribution discount for affixing stamps report that was compiled by Maha Khoury.

Having no further business, the committee adjourned at 12:00 noon.

**MINUTES
of the
SECOND MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE
September 23, 2005
Santa Fe**

The second meeting of the Tobacco Settlement Revenue Oversight Committee was called to order on September 23, 2005 at 10:00 a.m. in Room 311, State Capitol, by Representative Gail Chasey, co-chair.

PRESENT

Rep. Gail Chasey, co-chair
Sen. Mary Jane M. Garcia, co-chair
Sen. John T.L. Grubescic
Rep. Danice Picraux
Sen. John C. Ryan
Rep. Gloria C. Vaughn

ABSENT

Advisory Members

Rep. Ray Begaye
Sen. Joseph J. Carraro
Rep. Luciano "Lucky" Varela

Sen. Rod Adair
Sen. Dede Feldman
Sen. Linda M. Lopez
Sen. James G. Taylor
Rep. Teresa A. Zanetti

Staff

Ramona Schmidt
Cristina Martinez

The minutes of the June 20, 2005 meeting were approved upon motion duly made, seconded and passed without objection.

Representative Chasey welcomed all to the Tobacco Settlement Revenue Oversight Committee (TSROC) meeting and asked the members of the committee to introduce themselves.

David Vigil, program manager, Tobacco Use Prevention and Control (TUPAC) program, Department of Health (DOH), spoke to the committee about chronic disease and the impact tobacco use has on health. Mr. Vigil introduced Larry Elmore, TUPAC program manager, who gave an overview of the program's structure, how it operates and highlights of its successes and activities. He noted that tobacco costs New Mexico \$853 million in direct medical expenses and lost productivity annually. He gave a recent history of funding for TUPAC and reviewed the funds, TUPAC programs and program goals. Mr. Elmore stated the components are interlocked with a comprehensive system built around each. The outcome of the efforts, the funding and the support from the legislature, governor and communities have resulted in 15 percent fewer New

Mexico adult smokers in 2004 as compared to 2001. The decline in the percentage of smokers between 2001 (23.8 percent) and 2004 (20.3 percent) was statistically significant. The estimated economic benefits from the recent reduction in adult smoking in New Mexico were reviewed. Goals include preventing initiation among youth and young adults and promoting quitting among youth and adults. He noted a major development for this year was the initiation of the promote quitting help line, "1-800-QUIT NOW", with expanded hours of service and more comprehensive counseling. Mr. Elmore stated studies of successful tobacco control programs show that a program must be comprehensive, accountable, adequately funded and sustained over time. Mr. Elmore and Mr. Vigil stood for questions.

On questioning from committee members, the presenters noted that:

- smoking is a risk factor to certain populations that leads to an addiction that leads to a disease that can kill a person;
- the overall funding for the program for FY 2006 from the state general fund was \$6 million and CDC funding was \$1 million, and the request for 2007 is a flat budget of \$6 million;
- the flat budget request came from the Department of Finance and Administration (DFA); and
- TUPAC would like to play a part in deciding what performance measures to require.

Representative Varela introduced Kacee Collard, fiscal analyst, Legislative Finance Committee (LFC), who reviewed the performance measures from the 2003 recommendation and the amounts previously funded and stated she is addressing the current funding requests. Representative Chasey asked that the LFC also consider what performance measures DOH is using and what may already be included with current contracts.

Committee staff will work with the LFC to address FY 2007 funding requests and performance measures. Discussion occurred as to how to balance the decrease in smoking and the maintenance of the current revenue stream and the need to see if smoking is actually decreasing due to declining purchases of cigarettes throughout the state based on increased prices, or if the purchasing is shifting to Indian reservations or the internet. Mr. Elmore stated there are measurements built into TUPAC contracts and there have been contracts terminated when the deliverables were not met.

Mr. Elmore will provide Representative Varela with a copy of the RFP for the SMART Moves program. It was clarified there is subcontracting with the Alliance for Boys and Girls Clubs for prevention and cessation services with emphasis on SMART Moves programming for youth.

Representative Chasey asked Mr. Elmore to supply an estimate to the LFC of the increase in funding needed for the quit line to be brought back up to offer three intervention calls to everyone based on the projection of the estimated calls and the amount needed for funding of nicotine replacement therapy.

Judith Gabriel, DOH, gave a presentation on the Diabetes Prevention and Control (DPC) program. She reviewed the diabetes program goals and noted one in 11 adults has diabetes. Ms.

Gabriel stated the national diabetes trends are not good: child diabetes nationally has increased at an alarming rate, and from 1998 to 2004 there was an increase in the effectiveness of the performance measures. She noted the projects funded in FY 2005 included public education and community outreach, physical activity program, the Kitchen Creations cooking school classes, syringe/needle disposal and exchange MOA with the DOH Harm Reduction program.

Discussion occurred as to how diabetes costs the state, what is being done in rural areas and how the DPC program is working to address the high diabetes rate in the Native American population. Ms. Gabriel noted DPC works in rural areas, has a number of programs to work with patients with diabetes and is working on access issues. In response to how physical activity is being addressed in the school systems, Ms. Gabriel stated the CATCH program has a physical activity component.

Dorothy Danselner, deputy director of public health, and Donald Torres, DOH, gave an update on the HIV/AIDS program. Mr. Torres reviewed the overall HIV/AIDS incidence in New Mexico from 1990 to 2004. He stated that 160 new cases were reported in the state and there is generally an additional one-third percent across the country that are undiagnosed. There were six individuals in New Mexico who died from AIDS in 2004. Discussion occurred as to whether there should be expanded testing for HIV/AIDS. Mr. Torres responded that there has been a suggestion to expand testing, such as for women of child-bearing age. He stated New Mexico is a low-incident state rate-wise but is seeing a sharp increase in the Hispanic population. Mr. Torres noted that part of the effort in prevention is to target specific intervention in certain populations. There is also a shift in age group, but it is hard to account for this change. Female cases are 25 percent of the cases nationally and 13 percent of the cases in New Mexico.

Ms. Danselner reviewed the tobacco settlement funding of \$470,000 for the HIV/AIDS program, with \$310,000 for HIV/AIDS treatment services and \$160,000 for HIV/AIDS prevention services. She stated DOH is requesting the same funding for the upcoming year. The contractors and the amounts received were reviewed. Prevention funding includes providing harm reduction services, such as syringe exchange and overdose prevention training for \$132,350; purchasing television spots for national HIV Testing Day for \$7,511; and funding hepatitis B, C and HIV tests for the Paso del Norte Seroprevalence study for \$18,639. Ms. Danselner noted that \$1,500 of tobacco settlement funds was leveraged to obtain an additional \$55,000 from the U.S. AIDS Foundation for use by New Mexico prevention contractors in FY 2006. Ms. Danselner informed the committee members that there are strict performance measurements in place. Committee members encouraged increased testing. Mr. Torres noted that there has been a turnaround for treating HIV and the drug regimen is directly attributable for the decrease in deaths due to HIV/AIDS.

Glenn Smith, deputy attorney general, presented an update on the Master Settlement Agreement (MSA) and noted some concern regarding payments to states. Mr. Smith reminded committee members that the money received in the MSA is subject to adjustments based on a number of conditions. The first condition, whether the major tobacco companies originally involved in the MSA experienced a drop in market share of over two percent, was experienced in 2003. The second condition to be satisfied is for an independent econometrics firm to determine whether participation in the MSA is a significant factor in the loss of market share. This study will probably conclude in the spring of 2006. He stated the National Association of Attorneys

General have assembled resources for the purpose of enforcing the terms of the agreement and are working with outside counsel to demonstrate there was not a significant factor to occasion the market share loss. Because of this, there is a threat to the money received. He explained that money that would otherwise go to the states would go into a suspense account based upon a figure close to \$1.1 billion allocated to all the states based on the numbers. The final condition is that the states are required to diligently enforce their statutes regarding escrow.

Mr. Smith reviewed the basis of the MSA for committee members. He reminded the committee that he has urged that more resources be put forward for the Attorney General's Office and the Taxation and Revenue Department (TRD) to ensure escrow amounts are paid and paid in correct amounts. He stated the TRD is understaffed to gather the information from the distributors in the state.

Mr. Smith noted that this issue is occurring for FY 2003 and will need to be addressed each year. The committee members discussed the need to provide resources to prove diligent enforcement of the state's statutes. Senator Ryan made a motion that a letter be drafted and sent to the LFC recommending adequate staffing be available at the Attorney General's Office and the TRD to ensure enforcement of the model escrow statute. Motion was seconded. Representative Vaughn asked that the letter also be sent to the governor. The motion was adopted. Copies of the letter will also be sent to the attorney general and the secretary of taxation and revenue.

Larry Heyeck, deputy director, Human Services Department (HSD), and Virginia Alcon, HSD, gave a presentation on the Breast and Cervical Cancer program. Mr. Heyeck reviewed the program's history, eligibility and program benefits, the population served under the program, the distribution of program costs and the goals of the program. He noted the program has specific eligibility criteria and federal criteria for eligibility must also be reviewed. He stated women in the program receive full Medicaid coverage through fee for service. The population served during FY 2005 and FY 2004, the distribution of breast and cervical cancer costs during FY 2005 and FY 2004 and the distribution of program costs during FY 2005 and FY 2004 were reviewed. One goal of the program is to increase services and DOH has an extensive outreach program that includes advertising through a number of venues.

In response to a question on the connection between the DOH and the HSD for clients who are not Medicaid eligible, Mr. Heyeck said the departments coordinate communication to bring outreach and awareness of the program to those individuals who might fall between the gaps. Eighteen percent of the total cost is the state share. Mr. Heyeck will find out what, if any, administrative costs are associated with the program and communicate them to Representative Begaye.

Al Padilla, chief professional officer for Santa Fe Boys and Girls Club and administrator for the SMART Moves program, stated the New Mexico Alliance of Boys and Girls Clubs, Inc., (NMABGC) this year has chosen not to contract directly with the Santa Fe Boys and Girls Club to administer the SMART Moves program. Mr. Padilla noted the success with the program has been great but the Santa Fe Boys and Girls Club is limited in funds and needs additional funds to assist the program throughout the state. He stated the evaluator for the NMABGC has resigned in part due to a disagreement regarding the future direction of the program. The current funding

through DOH was reviewed. A request for proposal (RFP) has resulted in the NMABGC receiving funds as a subcontractor and a RFP has been sent out to fill the evaluator position. Discussion occurred regarding the current issues facing the SMART Moves program and the need to gather more information in an investigatory process to better address the program's viability. Representative Chasey reminded the committee members there had been a past concern that the SMART Moves program should be funded through TUPAC programs through the DOH to ensure appropriate performance measures. Mr. Elmore addressed the funding issues through TUPAC and stated that NMABGC is the only organization that licenses SMART Moves. He stated there had been an agreement that the NMABGC would contract with DOH for TUPAC.

Having no further business, the committee adjourned at 12:00 noon after a motion duly made, seconded and unanimously adopted.

Material distributed at the meeting is in the meeting file in the Legislative Council Service library.

**MINUTES
of the
THIRD MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**November 10, 2005
Rotunda Room, 801 University Blvd. SE
Albuquerque**

The third meeting of the Tobacco Settlement Revenue Oversight Committee (TSROC) was called to order on November 10, 2005 at 10:25 a.m. in the Rotunda Room at 801 University Blvd SE, Albuquerque, by Representative Gail Chasey, co-chair.

Present

Rep. Gail Chasey, Co-chair
Sen. Mary Jane M. Garcia, Co-chair
Rep. Danice Picraux
Rep. Gloria C. Vaughn

Advisory Members

Rep. Ray Begaye
Sen. Joseph J. Carraro

Absent

Sen. John T.L. Grubescic
Sen. John C. Ryan

Sen. Rod Adair
Sen. Dede Feldman
Sen. Linda M. Lopez
Sen. James G. Taylor
Rep. Luciano "Lucky" Varela
Rep. Teresa A. Zanetti

Staff

Ramona Schmidt
Jeremy LaFaver

Guests

The guest list is in the meeting file.

Thursday, November 10

A motion was made to approve the minutes from the September 23, 2005 meeting. The motion was seconded and the minutes were adopted.

Representative Chasey welcomed all to the TSROC meeting and asked the members of the committee to introduce themselves.

The University of New Mexico (UNM) Health Sciences Center overview was presented by Dr. John Pieper, deputy vice president, UNM Health Sciences Center. Dr. Pieper reviewed the special programs funded or partially funded by money from the Tobacco Settlement Fund. The Area Health Education Center, established in 1985, strives to increase the number of health care professionals practicing in rural and underserved areas of the state and provides training opportunities and health career awareness programs in these communities. The Los Pasos program provides comprehensive health services to families and to children from birth to three years old who have been exposed in-utero to alcohol and other drugs. Program goals include the prevention of negative consequences of parental use of alcohol, tobacco and other drugs on children and training support and technical assistance to agencies in northern New Mexico. Discussion occurred as to federal funding putting some of the programs at risk due to decreasing funds.

Dr. Pieper stated that the pediatric oncology program, established in 1965, is the major provider of care for children with cancer in New Mexico. The mission of the program is to be a center of excellence for diagnosis and care of children with cancer and to advance the knowledge and understanding of these diseases through research and education. The New Mexico Poison and Drug Information Center provides services through phone consultations, public education and definitive treatment information to health professionals. The Center for Telehealth, established in 1995, improves the health of rural New Mexicans by using advanced technology to extend the resources of the UNM Health Sciences Center to remote areas of the state. Dr. Pieper noted that funding for specialty education in pediatrics provides staffing to allow faculty to meet the demands of patient care, while continuing to train New Mexico's next generation of pediatricians and conduct vital research. The specialty education in trauma program provides staffing to allow faculty to meet the demands of patient care, while continuing to train New Mexico's next generation of trauma/emergency physicians and conduct vital research. He noted the trauma program is viewed regionally as one of the premier programs.

Dr. Richard Larson, senior associate dean for research, reviewed the allocations for the areas of genomics, biocomputing, epidemiology, clinical research and trials and enhanced tobacco-related research. Dr. Larson stated that the genomics core facilities are shared "high-tech" facilities that provide biomedical scientists from UNM and collaborating institutions access to sophisticated new human genome technologies to determine the causes and develop better therapies for diseases such as cancer, asthma, diabetes, infectious diseases and neurological disorders. He noted the Office of Biocomputing offers computational support for genomics, proteomics, cheminformatics and structural analysis of compounds essential to the development of new drugs and therapies. The third area of research funds, epidemiology, has activities dedicated to expanding research that will benefit the unique population of New Mexico. Funding is also used to support infrastructure in the clinical/research trials area. Clinical trials allow researchers to study the safety and efficacy of new medications for the treatment of

chronic disease related to tobacco-sensitive organs including the heart, lungs, brain and kidneys. Tobacco-related research programs address such issues as relationships between tobacco exposure and autoimmunity, asthma and other diseases afflicting New Mexicans.

Committee members raised issues that included the applicability of the programs to Native Americans and the ethnicity proportions required in clinical trials. Dr. Larson reviewed the external measures of success, including publications and federal and externally sponsored grants, the internal evaluation of relevance and utilization, the relevance to goals of tobacco settlement funds, the impact factor, the size and growth of user base, the relevance to UNM/SOM signature programs, tobacco-related illnesses, highlights of support activities and a summary of the tobacco fund support. Vanessa Hawker reviewed evaluation of the varying programs for the accountability for the use of state funds. The role of Native Americans in the UNM Health Sciences Center programs, the worth of workshops and conferences offered to Native Americans, the collaboration between Indian Health Services and UNM, staff turnover and the basis for Tobacco Settlement Revenue funding to UNM as compared to more diverse use of the funds throughout the state was discussed. Representative Chasey reminded the committee that the enabling bill limits the use of the Tobacco Settlement Fund for tobacco- and health-related issues.

Dr. Rubin from the Lovelace Respiratory Research Institute (LRRI) gave a presentation to the committee. Dr. Rubin stated LRRI is an independent, private research institute serving humanity through research on the prevention, treatment and cure of respiratory diseases. He noted LRRI is the only private basic-science, biomedical research organization totally dedicated to the study of respiratory diseases. Dr. Rubin reviewed the original expectation for the use of state funding, which was to appropriate funds that leverage research dollars with potential for economic development such as cures for people with or at risk for lung disease, new technology that can be commercialized, creation of technology jobs in New Mexico and leveraging state money to obtain new federal and private funding. He stated the goal is to develop a test that can identify people who are at greatest risk for lung cancer. He noted these people would receive further clinical evaluation to determine if they have early-stage lung cancer. The progress to date and the future for lung cancer research in New Mexico was discussed. Dr. Rubin stated LRRI also studies COPD, which is a disease that includes emphysema and chronic bronchitis. Ongoing research includes collecting DNA from New Mexico smokers who do and do not have COPD, determining the polymorphisms that are associated with this disease and development of an inexpensive commercial test for these genes.

Dr. Rubin stated that LRRI is asking for the same funding as in the past, which comes through UNM. It was clarified that LRRI receives funding of \$1,000,000 from the state, which is recurring. Discussion occurred as to why women may be more susceptible to lung cancer than men, the requirements and timelines involved to receive FDA

approval and the connection between COPD and chronic bronchitis. Dr. Rubin clarified that Dr. Tesfaigzi had discovered the genetic marker for emphysema.

Melissa Vigil, Department of Finance and Administration, presented the tobacco settlement revenue update. She stated payments are to be made in perpetuity; however, the annual payments are subject to adjustments, the investments are very hard to forecast and the volume adjustment reduces revenue. Ms. Vigil reviewed the terms of the agreement and how it affects the total payments through adjustments. The balances in the Tobacco Settlement Permanent Fund totaled \$77,300,000 at the end of fiscal year 2005. She noted the fund has not received a contribution since the settlement proceeds were diverted to the general fund in fiscal year 2003 but the permanent fund continues to earn interest. A schedule of Master Settlement Agreement (MSA) payments to New Mexico beginning in 1992 and expected to be received through 2025 was reviewed. Discussion occurred as to the need for due diligence to protect future funding based on the terms of the MSA. Due diligence will need to be shown as quid pro quo. Ms. Vigil will present at the December 6 meeting of the Legislative Finance Committee (LFC) to review the concern with possible loss of funding of the annual settlement payment if due diligence is not met on the part of the state.

Larry Elmore, program manager, TUPAC program, Department of Health (DOH), and Kacee Collard, analyst, LFC, presented key outcome indicators for evaluating comprehensive tobacco control programs. The performance measures currently used and recommended include tobacco use by adults, tobacco use by adolescents and per capita consumption of tobacco products. Mr. Elmore stated credit card companies have recently agreed not to participate in the purchase of tobacco products over the Internet, and Federal Express has decided not to deliver tobacco products purchased over the Internet. A logic model was reviewed that addresses inputs, activities, outputs and outcomes in preventing initiation of tobacco use among young people. The tobacco use by adults, tobacco use by adolescents and per capita consumption of tobacco products data were shared with committee members. Quitline budget projects were shared. Mr. Elmore noted the estimate for resuming previous levels of service and promotion would be an additional \$86,000 (for a total of \$436,000) and offering nicotine replacement therapy would require an additional \$604,000 (for a total of \$954,000). Mr. Elmore noted the projections are variable and change dependent on varying factors.

Discussion ensued on the impact that prevention programs have in reducing smoking and the increase that occurs when the prevention programs are decreased. Ms. Collard noted the DOH has gathered much data and statistics which will be added into the budget recommendations from the LFC and the executive. Discussion occurred regarding nicotine replacement therapy, the quitline and a request for more direct statistical data such as the number of youths that smoke and the reduction in smoking after the program implementation. Representative Chasey asked Ms. Collard to sit with David Abbey and Representative Varela, who had addressed initial concern, to review the performance measures gathered.

Dale Tinker spoke during public comment to inform the committee of the program contract with pharmacists in New Mexico to provide smoking cessation through pharmacies throughout the state. There are 40 pharmacists currently trained in smoking cessation. The program focuses on the pharmacies that commit to the smoking cessation program and do patient outreach in their communities. The program is unique as pharmacists in New Mexico can write prescriptions for FDA-approved products. The program is based on a grant of \$100,000, and with more funding it could expand to other pharmacies.

Nathan Bush, government relations director, American Cancer Society, gave public comment on the current diversion of the Tobacco Settlement Permanent Fund money into the general fund. He stated it is the position of the American Cancer Society and its partners that the Tobacco Settlement Permanent Fund should resume with the investment of MSA money as soon as possible. He noted that the sooner the Tobacco Settlement Permanent Fund is once again allowed to receive MSA distributions, the sooner that the fund will be self-sustaining, therefore making it unnecessary for each of the funded programs to be forever dependent upon annual general fund appropriations.

Cynthia Serna, New Mexicans Concerned about Tobacco, stated that the Centers for Disease Control and Prevention (CDC) provides each state with a population-dependent estimate of what that state should be spending minimally on tobacco control in order to provide for a fully funded tobacco use and prevention and cessation program. She noted that in New Mexico, the estimate from the CDC is nearly \$14,000,000. New Mexicans Concerned About Tobacco and its partners would like to thank the TSROC for its past interest in nudging the state closer to that \$14,000,000 objective and asked for a continued incremental increase for fiscal year 2007 to \$8,000,000 if possible.

Julia Valdez, director of government affairs for the American Heart Association, stated that each of the 50 states received an additional payment from the MSA in October 2005. Because of this recent development, in New Mexico the general fund is now in receipt of an additional \$426,990.95. Ms. Valdez, on behalf of the American Heart Association and its partners, respectfully suggested that this additional money be tapped as a supplemental funding request to support the DOH quitline services for the remainder of fiscal year 2006. She noted that at the September TSROC meeting, DOH reported that the demand for the quitline services has quickly outpaced the federal funding that supports the quitline program.

Committee members agreed without objection to revise the funding levels for the same programs in fiscal year 2006 to include:

- a nonrecurring line item for fiscal year 2006 of \$426,990.95 earmarked for the DOH for the quitline and nicotine replacement programs;
- a recurring line item for fiscal year 2007 of \$500,000 earmarked for the Indian Affairs Department to be used for tobacco cessation and prevention

- programs that impact Native American communities throughout the state of New Mexico and with program evaluation to mirror that developed and implemented by DOH for the TUPAC programs; and
- increase the amount of funding recommended for DOH for the tobacco cessation and prevention programs for fiscal year 2007 to total \$8,690,000.

The budget request will be presented to the LFC by Senator Garcia and Representative Picraux, along with Ramona Schmidt, TSROC staff, and Melissa Vigil, DFA, at the December 6 LFC meeting.

A motion was made to send a letter to the LFC from the committee in support of the letter from David Abbey to DOH to clarify the fiscal agent on the SmartMoves program. The motion was seconded and unanimously adopted.

A motion was made to endorse the recommendation to protect the Tobacco Settlement Permanent Fund as made by Mr. Bush. The motion was seconded and unanimously adopted.

Having no further business, the committee adjourned at 3:30 p.m. after a motion duly made, seconded and unanimously adopted.

Material distributed at the meeting is in the meeting file in the Legislative Council Service Library.

FY 2007 Funding Recommendations

TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE
FISCAL YEAR 2007 RECOMMENDATIONS

1. CONTINUE AND INCREASE FUNDING FOR THE TOBACCO USE PREVENTION AND CONTROL PROGRAM (TUPAC), DEPARTMENT OF HEALTH (DOH)

Current Recurring Funding - \$8,000*

FY 2007 Recommended Recurring Funding - \$8,690

FY 2006 Recommended Supplemental Non-Recurring Funding - \$426.9**

The committee is recommending that we continue to build a comprehensive tobacco cessation and prevention program that will eventually reduce the number of tobacco users, thereby reducing tobacco-related disease and treatment, which presently costs \$48 to \$70 million in Medicaid expenditures alone. The Centers for Disease Control and Prevention (CDC) recommends a minimum of \$14.2 million on such a program to significantly reduce tobacco use.

TUPAC contracts with over 60 contractors across the state to implement the goals of the program. The increase in funds would allow, among other things, a 1-800-Help line for cessation services, an increase in targeted school districts and youth activities, and tobacco cessation coverage in health plans. Contractors under this program fall into six categories:

Community Programs:

Local community programs reduce tobacco use through changes in the social environment and through community partnerships. The programs combine prevention, education and cessation efforts to mobilize communities to combat tobacco use and exposure. In addition to community health planning, the programs recruit youth into tobacco use prevention coalitions, train youth as advocates for their peers, provide media literacy and merchant education, and counter tobacco marketing activities.

Cessation Programs:

These programs focus on increasing access and availability of stop-smoking counseling and treatment, from the simplest quit technique to the most intensive. They are based upon proven intervention models. The programs include cessation interventions in schools, communities and health facilities, education on how to deliver cessation services, training for people who will lead cessation groups and media messages on quitting.

School-based Youth and Parent Programs:

These funds are awarded to school districts or allied organizations that provide programs ranging from age-specific classroom curricula to teacher training, special

* All dollar amounts are given in thousands.

** Supplemental funding request of \$426,990.95 to support Department of Health's quitline services for remainder of Fiscal Year 2006 from monies received by the state general fund in October 2005 as additional payment from the Master Settlement Agreement.

school projects, media literacy training, peer education programs and cessation programs for staff, parents and students. The programs are intended to prevent youth initiation of tobacco use, educate youth about the dangers of tobacco use, teach life skills and refusal skills, and provide an opportunity for youth who already smoke or use spit tobacco to quit.

Media Campaigns:

These funds are awarded to provide public awareness and education campaigns that send and reinforce powerful tobacco-free messages to promote cessation of tobacco use, promote prevention and educate about risks associated with secondhand smoke. Activities include newspaper articles featuring youth tobacco prevention, anti-tobacco banners and billboards, media literacy training, counter advertising, TV, radio, billboard and print media, and a 1-800-4-CANCER help line.

Partnerships with Disparate Populations:

These funds are awarded to assist various communities that are disproportionately affected by tobacco use, including Native Americans, Hispanics, women, rural populations and low-income individuals. Partnerships with these groups are aimed at increasing prevention and reducing tobacco use. Activities include facilitating focus groups and organizing and implementing forums to educate and inform.

Surveillance and Evaluation:

These funds are used to monitor the behaviors, attitudes and outcomes related to tobacco use and to track the progress of program elements and performance indicators, including developing a common reporting format for all TUPAC programs, providing evaluation training, conducting youth and adult tobacco surveys, and identifying, collecting and analyzing evaluation information and data.

SMART Moves, New Mexico Alliance for Boys & Girls Clubs:

SMART Moves is a national prevention program that aims at providing young people the knowledge, skills, self-worth, and peer support for avoiding alcohol, tobacco and other drugs, avoiding involvement in other drug-related programs. Based on best practices from prevention specialists, the SMART Moves curriculum has been implemented successfully in the New Mexico Alliance for Boys & Girls Clubs and has showed significant positive results during the past three years.

2. CONTINUE FUNDING THE DIABETES PREVENTION AND CONTROL PROGRAM, DOH

Current Recurring Funding - \$1,000

FY 2007 Recommended Recurring Funding - \$1,000

These funds provide public education and media on diabetes and support for rural clinics with supplies, equipment and lab tests. They would also provide diabetes education on children's health as well as activity and nutrition programs in elementary schools.

3. CONTINUE FUNDING HIV/AIDS SERVICES, DOH

Current Recurring Funding - \$470

FY 2007 Recommended Recurring Funding - \$470

These funds provide chronic care AIDS treatment services to help people with AIDS lead longer, fuller and more productive lives. The care includes practical, psycho-social and clinical services. The funds are also used to contract with community-based organizations to implement statewide HIV prevention and education programs.

4. CONTINUE FUNDING THE BREAST AND CERVICAL CANCER TREATMENT PROGRAM, HUMAN SERVICES DEPARTMENT

Current Recurring Funding - \$1,300

FY 2007 Recommended Recurring Funding \$1,300

The purpose of these funds is to provide treatment for women with breast or cervical cancer who are eligible for Medicaid. New Mexico receives an enhanced federal match for this program. Federal funds pay 82 percent and state funds 18 percent of the total cost. Since the program began in July, 2002, the number of participants continues to grow. The program has been successful in early detection of cancer and pre-cancerous conditions.

5. CONTINUE FUNDING RESEARCH PROGRAMS, UNIVERSITY OF NEW MEXICO (UNM) HEALTH SCIENCES CENTER (HSC)

Current Recurring Funding - \$1,500

FY 2007 Recommended Recurring Funding - \$1,500

These funds would be used for existing health care research programs by UNM HSC, to translate research findings into effective clinical care programs, disseminate scholarly work, and recruit and hire scientists and support personnel. The research funds are spent as follows:

Genomics core facilities	\$ 162.5
Epidemiology	374.8
Enhanced tobacco-related research	180.0
Clinical research and trials	329.1
Biocomputing	<u>453.6</u>

\$ 1,500.0

6. CONTINUE FUNDING OTHER PROGRAMS ADMINISTERED BY UNM

Total Current Recurring Funding - \$1,900

Total FY 2007 Recommended Recurring Funding - \$1,900

Area Health Education Centers \$50

The purpose of these funds is to increase the number of health care professionals practicing in rural and under served areas and to expand clinical training in those areas for medical, nursing, public health, pharmacy, physician assistants and allied health students, as well as for primary care residents. Additionally, the funds are intended to increase the health profession applicant pool from under-represented ethnic minorities and from shortage areas. Finally, the funds would support and provide continuing education programs in order to retain health professionals in the under served areas.

Center for Telehealth \$150

The purpose of these funds is to improve the quality of and access to health care systems in rural New Mexico by using advanced technology to extend the resources of the UNM HSC to remote areas of the state. The funds are used to increase the number of clinical services, educational programs and administrative activities delivered to remote sites. The center collaborates with the federal government and the University of Hawaii.

Los Pasos Program \$50

The purpose of these funds is to provide comprehensive health services to families and to children up to age three who have been exposed in utero to alcohol and other drugs. The goals include the prevention of negative consequences of parental use of alcohol, tobacco and other drugs, as well as training support and technical assistance to agencies and community programs in northern and central New Mexico.

Pediatric Oncology \$400

The purpose of these funds is to provide statewide quality care, treatment, monitoring and support for children and families facing childhood cancer. The program has initiated a three-year pediatric oncology curriculum for residents and advances the treatment of childhood cancer through the pursuit of clinical and basic research at the local and national level.

Poison and Information Center \$450

The purpose of these funds is to reduce morbidity and mortality associated with poisoning and to encourage proper use of medications. The center provides a statewide poison prevention program, educates the public, offers first-aid information, distributes materials and provides treatment information to health professionals. The funds support 24-hour statewide expert assistance for poisoning emergencies. The center has an active research program, provides education and training to health care professionals and collaborates with local, state and federal agencies.

Specialty Education in Pediatrics \$400

The purpose of these funds is to pay salaries of physicians serving on the pediatrics faculty at the UNM School of Medicine. The faculty treat children as well as educate medical students, residents and community providers. They conduct research to advance pediatric health care across the state. The funds will also be used for related materials, services and travel to assist the educational program.

Specialty Education in Trauma \$400

The purpose of these funds is to pay salaries of physicians serving on the UNM School of Medicine faculty. The faculty educate medical students in trauma, critical care and emergency care and staff the Level I Trauma Center at the UNM Hospital emergency room.

7. CONTINUE FUNDING THE LOVELACE RESPIRATORY RESEARCH INSTITUTE, EMPHYSEMA AND LUNG CANCER RESEARCH, UNM

Current Recurring Funding - \$1,000

FY 2007 Recommended Recurring Funding - \$1,000

These funds would continue the contract with Lovelace Respiratory Research Institute (LRRI) for its research in emphysema and lung cancer detection and treatment. LRRI is "leading the world" in lung cancer research. The research also includes a cohort study on women at risk for lung cancer and emphysema.

8. TOBACCO CESSATION AND PREVENTION PROGRAMS, INDIAN AFFAIRS DEPARTMENT

FY 2007 Recommended Recurring Funding - \$500

The committee is recommending funding for tobacco cessation and prevention programs that impact Native American communities throughout the state with program evaluation to mirror that developed and implemented by the Department of Health.

TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE (TSROC)
FISCAL YEAR 2006 RECOMMENDATIONS AND ACTUAL APPROPRIATIONS
AND FISCAL YEAR 2007 PROPOSED RECOMMENDATIONS
(thousands of dollars)

Agency and Program	2006 TSROC Recommendations	2006 General Fund Appropriation	2007 TSROC Recommendations
Department of Health			
Tobacco cessation and prevention programs	\$6,000.0	\$6,000.0 (a)	\$8,690.0
Diabetes prevention and control program	1,000.0	1,000.0	1,000.0
HIV/AIDS services	470.0	470.0	470.0
Total Department of Health	7,470.0	7,470.0	10,160.0
Human Services Department			
Breast & cervical cancer treatment program	1,300.0	1,300.0	1,300.0
Total Human Services Department	1,300.0	1,300.0	1,300.0
University of New Mexico			
Innovations in preventing and treating tobacco-related diseases			
Genomics core facilities	162.5	162.5	162.5
Epidemiology	374.8	374.8	374.8
Enhanced tobacco-related research	180.0	180.0	180.0
Clinical research and trials	329.1	329.1	329.1
Biocomputing	453.6	453.6	453.6
Subtotal UNM tobacco-related diseases	1,500.0	1,500.0 (b)	1,500.0
Other programs			
Area Health Education Center	50.0	50.0	50.0
Center for telehealth (formerly telemedicine)	150.0	150.0	150.0
Los Pasos program	50.0	50.0	50.0
Pediatric oncology	400.0	400.0	400.0
Poison & Information Center	450.0	450.0	450.0
Specialty education in pediatrics	400.0	400.0	400.0
Specialty education in trauma	400.0	400.0	400.0
Subtotal UNM other programs	1,900.0	1,900.0	1,900.0
Contract with Lovelace Respiratory Research Institute			
in lung and tobacco-related diseases	1,000.0	1,000.0	1,000.0
Total University of New Mexico	4,400.0	4,400.0	4,400.0
Indian Affairs Department			
Tobacco cessation and prevention programs			\$500.0
Total Indian Affairs Department	0.0	0.0	500.0
Total Recurring Programs	\$13,170.0	\$13,170.0	\$16,360.0
Department of Health			
Tobacco cessation and prevention programs	\$426.9 (c)		
Total Non-Recurring Programs	\$426.9		

Notes:

(a) \$450,000 went to Smart Moves (alliance of boys and girls clubs).

(b) most of these programs received general fund appropriations over and above the tobacco settlement fund recommendations. The commission on higher education has also provided increases in the compensation levels.

(c) supplemental non-recurring request for DOH quitline and nicotine replacement programs for remainder of fiscal year 2006 from monies received by the state general fund in October 2005 as additional payment from the Master Settlement Agreement.

Proposed Legislation